

**RESOLUTION NO. \_\_\_\_\_, SERIES 2009**

**A RESOLUTION AUTHORIZING THE OFFICE OF THE JEFFERSON COUNTY ATTORNEY TO BRING A CONDEMNATION SUIT AGAINST THE OWNERS OF CERTAIN PROPERTY IN JEFFERSON COUNTY IN CONNECTION WITH THE BROWNSBORO ROAD/NEW CHAMBERLAIN LANE PROJECT (PARCEL 22).**

**Sponsored By: Councilman Kelly Downard**

**WHEREAS**, the Louisville/Jefferson County Metro Government ("Metro"), pursuant to KRS 67C.101 (3)(f) may acquire real property for public uses through the exercise of the power of eminent domain; and

**WHEREAS**, KRS 416.560(1) requires the legislative council of Metro ("Council") to approve the exercise of the power of eminent domain prior to Metro's instituting such proceedings; and

**WHEREAS**, Metro (as successor to Jefferson County and the City of Louisville) has planned and designed improvements to Brownsboro Road and New Chamberlain Lane, Project Kentucky 22-Section 2, Item No. 320.20, in conjunction with Louisville/Jefferson County Metro Government Department of Public Works and Assets; and

**WHEREAS**, as a part of the improvements, it is necessary to acquire additional right of way to widen Kentucky Highway 22 for the use and benefit of the citizens of Metro; and

**WHEREAS**, Metro has not been able to acquire the right of way described as Parcel 22 in the descriptions attached hereto as Exhibit A from the owners of Parcel 22 through good faith negotiations; and

**WHEREAS**, KRS 416.550 authorizes Metro to exercise its right of eminent domain against a property when it cannot acquire the property by agreement with the owner thereof; and

**WHEREAS**, acquisition by Metro of Parcel 22 for the needed right of way will substantially interfere with the owners' continued use of the remainder of the property ("Remainder") known as 9909 Brownsboro Road (the "Property") described in Exhibit B attached hereto; and

**WHEREAS**, the structure on the Remainder of the Property encroaches into the thirty-foot parkway buffer established on the parcels adjoining the Property on the East and West; and

**WHEREAS**, the Commonwealth of Kentucky, Transportation Cabinet has determined that the highest and best use of the Remainder of the Property is to raze the existing structure and build a new commercial structure on the Remainder of Property; and

**BE IT RESOLVED BY THE LEGISLATIVE COUNCIL OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT (THE COUNCIL) AS FOLLOWS:**

**Section 1:** That in order to complete the improvements to Brownsboro Road and New Chamberlain Lane, Project Kentucky 22-Section 2, Item No. 320.20, and to make the best use of the Property known as 9909 Brownsboro Road, Metro Government needs to acquire the Property, as described on attached Exhibit B (the "Condemned Property"). The Condemned Property is that property acquired by Kirk H. Swigert and Laura Lee Swigert, husband and wife, by deed dated July 15, 1999, of record in Deed Book 7282, Page 073, in the Office of the County Clerk of Jefferson County, Kentucky, the Swigerts conveyed a one-half, undivided interest in the property to Lee Hankins, a single person, by Deed dated April 17, 2002, of record in Deed Book 7862, Page 975 in the Office aforesaid.

PNC Bank, National Association may have an interest in the property pursuant to a Mortgage, dated July 15, 1999, filed of record in Mortgage Book 5189, Page 907, in the Office aforesaid.

Since Metro cannot, by agreement with the owners of the Condemned Property, acquire the Condemned Property, then the Office of the Jefferson County Attorney is authorized to institute condemnation proceedings pursuant to KRS 416.560, *et seq.* against the owners of the Condemned Property.

**Section 2:** That the Council finds that the Condemned Property needs to be acquired for the public use of Metro.

**SECTION III:** This Resolution shall take effect upon its passage and approval.

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Kathleen J. Herron  
Metro Council Clerk

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David W. Tandy  
President of the Council

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Jerry E. Abramson  
Mayor

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Approval Date

**APPROVED AS TO FORM AND LEGALITY:**

Michael J. O'Connell  
Jefferson County Attorney

BY: \_\_\_\_\_

## **Exhibit A**

### **Parcel No. 22,**

Beginning at a point 10.24 feet right of KY 22 station 278+24.74; thence North 23 degrees 52 minutes 03 seconds West, 86.16 feet to a point 75.00 feet left of KY 22 station 278+37.26; thence North 57 degrees 46 minutes 47 seconds East, 24.66 feet to a point 75.00 feet left of KY 22 station 278+61.92; thence 201.25 feet along an arc to the right, having a radius of 6075.00 feet, the chord of which is North 58 degrees 43 minutes 44 seconds East, 201.24 feet to a point 75.00 feet left of KY 22 station 280+60.68; thence South 24 degrees 00 minutes 38 seconds East, 78.30 feet to a point 2.82 feet right of KY 22 station 280+52.07; thence South 56 degrees 40 minutes 01 seconds West, 227.25 feet to the point of beginning.

The above described parcel contains .427 acres (18,579 sq. ft.).

Being a portion of the Property conveyed to Kirk H. Swigert and Laura Lee Swigert, husband and wife, by deed dated July 15, 1999, of record in Deed Book 7282, Page 073, in the Office of the County Clerk of Jefferson County, Kentucky, and to Lee Hankins, a single person, by Deed dated April 17, 2002, of record in Deed Book 7862, Page 975 in the Office aforesaid.

## **Exhibit B**

### **The Condemned Property**

BEING Tract 1 consisting of 1.24 acres, as shown on the Plat dated November 13, 1989, prepared by H.E. Rudy Consulting Engineers, approved by the Louisville and Jefferson County Planning Commission on November 27, 1989, attached to Deed of record in Deed Book 5918, Page 416, in the Office of the Clerk of Jefferson County, Kentucky.

Being the same Property conveyed to Kirk H. Swigert and Laura Lee Swigert, husband and wife, by deed dated July 15, 1999, of record in Deed Book 7282, Page 073, in the Office of the County Clerk of Jefferson County, Kentucky, and to Lee Hankins, a single person, by Deed dated April 17, 2002, of record in Deed Book 7862, Page 975 in the Office aforesaid.